



Ernie Fletcher  
Governor

LaJuana S. Wilcher, Secretary  
Environmental and Public  
Protection Cabinet

Christopher L. Lilly  
Commissioner  
Department of Public Protection

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P. O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

Mark David Goss  
Chairman

Teresa J. Hill  
Vice Chairman

Gregory Coker  
Commissioner

January 23, 2006

PARTIES OF RECORD:

Re: Case No. 2004-00508

Enclosed please find a memorandum that has been filed in the record of the above-referenced case. Any comments regarding this memorandum's contents should be submitted to the Commission within ten days of receipt of this letter. Questions regarding this memorandum should be directed to Dale Wright at 502/564-3940, Extension 235.

Sincerely,  
  
Beth O'Donnell  
Executive Director

vh/

Enclosure

Fawad Ali  
Cellco Partnership  
dba Verizon Wireless  
180 Washington Valley Road  
Bedminster, NJ 07921

Honorable W. Brent Rice  
Attorney At Law  
McBrayer, McGinnis, Leslie and  
Kirkland, PLLC  
201 East Main Street  
Suite 1000  
Lexington, KY 40507

Rachael A. Rowe  
Attorney at Law  
Keating, Muething & Klekamp  
1400 Provident Tower One East Fourth  
Cincinnati, OH 45202

## INTRA-AGENCY MEMORANDUM

### KENTUCKY PUBLIC SERVICE COMMISSION

**TO:** Case File No. 2004-00508

**FROM:** Dale Wright, Staff Attorney

**DATE:** December 12, 2005

**SUBJECT:** Case No. 2004-00508  
CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS  
CPCN: ROCKCASTLE COUNTY, KENTUCKY  
(RENFRO II CELL FACILITY)

On November 29, 2005, an informal conference was held at the Commission's offices. Those in attendance representing the PSC were Dale Wright and Eric Bowman. Those representing Cellco Partnership d/b/a Verizon Wireless ("Verizon") were Attorney Brent Rice, Amy Harper, and Tami Pike, with Craiglan Associates, a wireless facility site location specialist. Present by conference telephone was Attorney Rachel A. Rowe who represented Intervenors, Loretta Stevens Rowe and Major Jeffrey Stevens. Attorney Rowe, in addition, represents Jan Stevens, Jan Eyvan Stevens III, and Tammy Stevens, although they are not intervenors herein.

The meeting began by reviewing the status of the case. Intervenor, Major Jeffrey Stevens, was last known to be on active duty, stationed in Kuwait. For this reason, the Applicant and the Intervenors were requested by the Commission to file a memorandum of law prior to the conference on the issue of the applicability of the Servicemembers Relief Act of 2004. The relevant issue is continuing the prosecution of the case and discovery and hearing in the absence of Major Stevens. Verizon filed a memorandum prior to discovering that Major Stevens returned to Kentucky in early November. Attorney Rowe did not file a memorandum because the issue was then moot and she did not learn of the Major's return until just days prior to the conference.

The issues to be addressed at hearing were briefly discussed as follows: (1) Is there a public necessity for the construction of a new wireless facility. KRS 278.020(1); (2) The jurisdictional safety issues inherent in KRS 278.020(1) (i.e., is the facility properly and safely designed, engineered, and constructed, and will the facility provide proper service); (3) The Commission may take into account the character of the general area concerned and the likely effects of the installation on nearby land uses and values. KRS 278.650; and (4) Are there any suitable alternative locations where the tower can be collocated or constructed? KRS Chapter 100 and 807 KAR 5:063, Section 1(s).

Attorney Rowe requested that Verizon research and examine whether the tower could be disguised or camouflaged as a large tree of the fir or evergreen variety or something else less aesthetically offensive than a plain tower.

The procedural matters were discussed. It was agreed by the parties that Attorney Rowe would have 60 days from the date of the proposed Order to compile a list of specific suitable alternative sites which she will file with the Commission. Verizon would have 90 days from the date of filing of Ms. Rowe's alternative site list to respond to each specific location, explaining the reasons why each site or location would or would not be a suitable alternative site to collocate or construct the facility. Verizon's alternative site report should address the technical feasibility of each proposed site.

This procedural step necessitates canceling the tentative December 15, 2005 hearing date. Staff counsel will prepare and present to the Commission a procedural Order as outlined above.

